

2004 No. 822

INCOME TAX

The Friendly Societies (Modification of the Corporation Tax Acts) (Amendment) Regulations 2004

<i>Made</i> - - - - -	<i>18th March 2004</i>
<i>Laid before the House of Commons</i>	<i>18th March 2004</i>
<i>Coming into force</i> - - - - -	<i>8th April 2004</i>

The Treasury, in exercise of the powers conferred upon them by section 463 of the Income and Corporation Taxes Act 1988(a) hereby make the following Regulations:

Citation, commencement and effect

1. These Regulations may be cited as the Friendly Societies (Modification of the Corporation Tax Acts) (Amendment) Regulations 2004, come into force on 8th April 2004, and except as otherwise provided have effect for accounting periods beginning on or after 1st January 2003.

Amendments to the Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1997

2. The Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1997(b) are amended as follows.

3. In regulation 2—

(1) Omit the definitions of “directive society”, “non-directive society”, “section 37(3) society”, “relevant section 43 requirements”, and “specified transactions”;

(2) For the definition of “prescribed transactions” substitute—

““prescribed transactions” means any of the following transactions—

- (a) the transfer of business as between a friendly society required to keep a separate fund for long-term business and a friendly society not so required,
- (b) the amalgamation of a friendly society required to keep a separate fund for long-term business and a friendly society not so required,
- (c) the transfer of the whole or part of the business of a friendly society not required to keep a separate fund for long-term business to a company which is not a friendly society, and
- (d) the conversion of a friendly society not required to keep a separate fund for long-term business into a company which is not a friendly society,

and the requirement to keep a separate fund for long-term business means a requirement imposed by rule 4.20 of the Prudential Sourcebook (Friendly Societies);”(c);

(a) 1988 (c. 1).

(b) S.I. 1997/473.

(c) By virtue of section 466(2) of the Income and Corporation Taxes Act 1988, “long-term business” has the meaning given by section 431 of that Act.

- (3) in alphabetical order insert the following definitions—
- ““annual return society” means a friendly society which is required to submit an annual actuarial investigation to the Financial Services Authority under rule 5.1 of the Prudential Sourcebook (Friendly Societies);
- “non annual return society” means a friendly society which is not required to submit an annual actuarial investigation to the Financial Services Authority under rule 5.1 of the Prudential Sourcebook (Friendly Societies);
- “the Prudential Sourcebook (Friendly Societies)” means the Interim Prudential Sourcebook for Friendly Societies made by the Financial Services Authority under the Financial Services and Markets Act 2000;”.
4. After regulation 2 insert—
- “2A. In the Corporation Tax Acts, in their application to a friendly society—
- “insurance business transfer scheme” means a scheme which effects—
- (a) the transfer of the whole or part of the business of a friendly society to another friendly society,
- (b) the amalgamation of two or more friendly societies,
- (c) the transfer of the whole or part of the business of a friendly society to a company which is not a friendly society,
- (d) the conversion of a friendly society into a company which is not a friendly society, or
- (e) the transfer of the whole or part of the long-term business of an insurance company to a friendly society.”.
5. Omit regulations 3 and 4.
- 6.—(1) In paragraph (2) of regulation 6—
- (a) omit the definition of “directive society” and insert—
- ““annual return society” means a friendly society which is required to submit an annual actuarial investigation to the Financial Services Authority under rule 5.1 of the Prudential Sourcebook (Friendly Societies);”;
- (b) omit the definition of “non-directive society” and insert—
- ““non annual return society” means a friendly society which is not required to submit an annual actuarial investigation to the Financial Services Authority under rule 5.1 of the Prudential Sourcebook (Friendly Societies);”;
- (c) in the definition of “valuation report” treated as inserted in section 431(2)—
- (i) for “a directive society” substitute “an annual return society”;
- (ii) for “non-directive society” substitute “non annual return society”.
- (2) In paragraph (3) of regulation 6, in the definition of “liabilities” treated as substituted in section 431(2)—
- (a) for “a directive society” substitute “an annual return society”;
- (b) for “non-directive society” substitute “non annual return society”.
- (3) After paragraph (4) of regulation 6 insert—
- “(4A) Where a friendly society is not required to keep a separate fund for long-term business, for the definition of “long-term insurance fund” in subsection (2) there shall be substituted—
- ““long-term insurance fund” has the meaning given by section 431AB;”.”(a).
- (4) In paragraph (5) of regulation 6, in the definition of “periodical return” treated as substituted in section 431(2)—
- (a) for “a directive society” substitute “an annual return society”;
- (b) for “non-directive society” substitute “non annual return society”.
- (5) In paragraph (6) of regulation 6, in the definition of “value” treated as substituted in section 431(2)—
- (a) for “a directive society” substitute “an annual return society”;

(a) Section 431AB is treated as inserted by regulation 7A of S.I. 1997/473 which is inserted by regulation 7 below.

(b) for “non-directive society” substitute “non annual return society”.

7. After regulation 7 insert—

“7A. In the case of a friendly society not required to keep a separate fund for long-term business, the following section shall be treated as inserted after section 431AA of the Taxes Act—

“431AB. Friendly societies: meaning of “long-term insurance fund”

(1) “Long-term insurance fund” means the fund made up of—

- (a) assets held primarily for the purposes of long-term business carried on by a friendly society, and
- (b) the relevant fraction of each asset held neither primarily for the purposes of long-term business nor primarily for the purposes of some other specific business carried on by that society.

(2) For the purposes of subsection (1) “the relevant fraction” means—

$$\frac{(0.5 \times (\text{OLB} + \text{CLB})) - (0.5 \times (\text{OLA} + \text{CLA}))}{(0.5 \times (\text{OTB} + \text{CTB})) - (0.5 \times (\text{OTA} + \text{CTA}))}$$

where—

OLB and **CLB** are respectively the balances brought forward and carried forward in the fund accounts for those accounts within which the society conducts its long-term business;

OLA and **CLA** are respectively the opening and closing values of the assets already recognised at the beginning and end of the period of account as held for the purposes of long-term business carried on by the society;

OTB and **CTB** are respectively the total balances brought forward and carried forward on all the society’s fund accounts; and

OTA and **CTA** are respectively the opening and closing values of the assets already recognised at the beginning and end of the period of account as held for the purposes of long-term business or for the purposes of other specific business carried on by the society.

(3) In calculating the values and balances for the purpose of determining the relevant fraction in subsection (2), a balance on a general management fund or a general reserve fund shall be excluded.

(4) In subsection (2), references to balances brought forward and carried forward are references to balances brought forward and carried forward as shown in the society’s periodical return.”.”.

8. In regulation 9—

- (a) in paragraph (1), for “non-directive societies” substitute “non annual return societies”;
- (b) in paragraph (2), in the subsection (1D) treated as inserted in section 432A, immediately before paragraph (a) (pension business) insert—
“(aa) individual savings account business,”.

9. In regulation 13—

- (a) for paragraph (1) substitute—
“(1) Where an annual return society is not required to keep a long-term insurance fund, in respect of its life or endowment business section 432A of the Taxes Act shall apply with the following modifications.”;
- (b) omit paragraph (5).

10. For regulation 14 substitute—

“14.—(1) Section 432E of the Taxes Act shall apply to the life or endowment business of a friendly society with the following modifications.

(2) In subsection (1), the words “or, as the case may be, subsection (2B)” shall be inserted after the words “subsections (2) and (2A)”.

(3) After subsection (2A), the following subsection shall be treated as inserted—

“(2B) In a case where an amount is taken into account under subsection (2) of section 83 of the Finance Act 1989 by virtue of subsection (2F) of that section, the amount determined under subsection (2) above is increased by

$$\frac{\text{CAS} \times \text{RP}}{\text{AS}}$$

where—

CAS and AS have the same meanings as in subsection (2) above; and
RP is the amount taken into account under subsection (2) of section 83 of the Finance Act 1989 by virtue of subsection (2F) of that section.”.

11. Omit regulation 15.

12. In regulation 19(1), for “non-directive societies” substitute “non annual return societies”.

13. In regulation 19A(1)(a), for “non-directive societies” substitute “non annual return societies”.

14. In regulation 20(1), for “non-directive societies” substitute “non annual return societies”, wherever occurring.

15. In regulation 20A(1)(b), for “non-directive societies” substitute “non annual return societies”.

16.—(1) Omit regulation 21A(4)(c).

(2) This regulation has effect for the financial year 2003 and subsequent financial years.

17. Omit regulation 21B(d).

18. In regulation 22, for paragraphs (1) and (2) substitute—

“(1) The modifications of section 440 of the Taxes Act given in paragraphs (3) and (4) apply—

(a) where a friendly society begins or ceases to be required by rule 4.20 of the Prudential Sourcebook (Friendly Societies) to keep a separate fund for long-term business, or

(b) in relation to a prescribed transaction.”.

19. Omit regulation 23.

20.—(1) Omit regulation 25.

(2) Section 440(1) of the Income and Corporation Taxes Act 1988 shall not have effect in relation to any transfer of assets by virtue of paragraph (1).

21. Omit regulation 27.

22. In regulation 28(1), for “non-directive societies” substitute “non annual return societies”.

23. Omit regulation 30.

24.—(1) In regulation 30B(e)—

(a) in paragraph (2), for “(3), (10) and (11)” substitute “(3) and (10)”;

(a) Regulation 19A was inserted by S.I. 1998/1871.

(b) Regulation 20A was inserted by S.I. 1998/1871.

(c) Regulation 21A was inserted by S.I. 2001/3975.

(d) Regulation 21B was inserted by S.I. 2001/3975 and amended by S.I. 2003/23.

(e) Regulation 30B was inserted by S.I. 1999/2636.

(b) after paragraph (4) insert—

“(4A) In subsection (11)(b), after the word “profit” insert the words “which is taxable”.

(4B) In subsection (11B)(b), before the words “BLAGAB profits” insert the word “taxable”.

(4C) In subsection (11C)(b), before the words “BLAGAB profits” insert the word “taxable”.”(a).

(2) This regulation has effect for the financial year 2003 and subsequent financial years.

25. In regulation 30C(b), after paragraph (1) insert—

“(1A) The modification of section 804B(4)(a) prescribed by paragraph (2)(a) shall not apply where section 804B(4) is applied by virtue of regulation 4(3) and (5) of the Double Taxation Relief (Surrender of Relievable Tax within a Group) Regulations 2001.”(c).

26. In regulation 30D(1)(d), for “non-directive societies” substitute “non annual return societies”.

27. For regulation 32 substitute—

“**32.** Where section 82(1)(b) of the Finance Act 1989 applies, as originally enacted, by virtue of paragraph 1(6) of Schedule 33 to the Finance Act 2003—

(a) in the case of a friendly society, subsection (1)(b) of that section shall be modified so that for “section 9.6 of the Prudential Sourcebook (Insurers)” substitute “rule 5.1 of the Prudential Sourcebook (Friendly Societies)”;

(b) in the case of a non annual return society, after subsection (8) of that section there shall be treated as inserted—

“(9) Where a period of account ends on a day to which a valuation report has not been prepared, or begins on a day immediately following such a day, the amount of any unappropriated surplus on valuation for the purposes of subsections (1)(b) and (4) shall be the amount which was taken into account at the end of the last period of account for which a valuation report was prepared.”.

28. After regulation 32 insert—

“**32A.**—(1) In the case of a friendly society, section 82B of the Finance Act 1989 shall apply with the following modifications.

(2) In paragraph (a) of subsection 1, for “section 9.6 of the Prudential Sourcebook (Insurers)” substitute “rule 5.1 of the Prudential Sourcebook (Friendly Societies)”.

(3) In paragraph (b) of subsection 1, for “Rule 4.1(6) of the Prudential Sourcebook (Insurers)” substitute “Rule 2(6) of Appendix 4 to the Prudential Sourcebook (Friendly Societies)”.

(4) Where that friendly society is a non annual return society—

(a) in subsection (2) for “the period of account immediately preceding the period of account in question” substitute “the period of account for which a report was submitted which most closely precedes the period of account in question (“the most closely preceding period of account”);

(b) in subsection (3), wherever occurring, for “that immediately preceding period of account” substitute “the most closely preceding period of account”.”(e).

29. In regulation 33—

(a) in paragraph (1), for “directive societies” substitute “annual return societies”;

(b) in paragraph (2), for “(2)” substitute “(2E)”;

(c) in the subsections treated as inserted into section 83 of the Finance Act 1989(f), the

(a) Subsections (11), (11A), (11B) and (11C) of section 755A of the Income and Corporation Taxes Act 1988 were substituted by section 170 of, and paragraph 13 of Schedule 33 to, the Finance Act 2003.

(b) Regulation 30C was inserted by S.I. 2000/2710.

(c) S.I. 2001/1163.

(d) Regulation 30D was inserted by S.I. 2000/2710.

(e) 1989 (c. 26). Section 82B was inserted by section 170 of, and paragraph 1 of Schedule 33 to, the Finance Act 2003.

(f) Section 83 is amended by section 170 of, and paragraph 2 of Schedule 33 to, the Finance Act 2003.

subsections and references thereto shall be renumbered so that, wherever occurring, for “(2A)” substitute “(2F)”, for “(2B)” substitute “(2G)”, for “(2C)” substitute “(2H)”, and for “(2D)” substitute “(2I)”.

(d) in the inserted subsection (2F), for “a receipt of the period” substitute “an increase in value of the assets of the long-term insurance fund”.

30. Omit regulations 34 and 35.

31. In regulation 36(1), for “directive societies” substitute “annual return societies”.

32. In regulation 37(1), for “non-directive societies” substitute “non annual return societies”.

33.—(1) After regulation 39 insert—

“39A. In the case of a friendly society, section 88(3A)(a) of the Finance Act 1989 shall be modified by inserting the word “taxable” before the words “basic life assurance and general annuity business.”(a).

(2) This regulation has effect for accounting periods ending on or after 9th April 2003.

34. Omit regulation 40.

35. After regulation 40 insert—

“40A.—(1) In the case of a friendly society, section 89(1B) of the Finance Act 1989 shall be modified by inserting the word “taxable” before the words “basic life assurance and general annuity business”, wherever occurring.

(2) This regulation has effect for the purposes of section 210A of the Taxation of Chargeable Gains Act 1992 in relation to any accounting period of a company if it is necessary under that section to determine the company’s taxable basic life assurance and general annuity business profits for the period.

(3) Subject to paragraph (2), this regulation has effect for accounting periods ending on or after 9th April 2003.”(b), (c).

36.—(1) After regulation 43 insert—

“43A.—(1) In the case of a friendly society, section 210B of the Taxation of Chargeable Gains Act 1992 shall be modified as follows.

(2) In subsection (7)(a), the word “taxable” shall be inserted before the words “BLAGAB internal linked fund”.

(3) In subsection (8), for the definition of “BLAGAB internal linked fund” there shall be substituted—

““taxable BLAGAB internal linked fund” means an internal linked fund all the assets appropriated to which are linked solely to taxable basic life assurance and general annuity business.”(d).

(2) This regulation has effect in accordance with sub-paragraphs (2) and (3) of paragraph 15 of Schedule 33 to the Finance Act 2003.

37. Omit regulation 44.

38.—(1) After regulation 44 insert—

“44A.—(1) In the case of a friendly society, section 211ZA of the Taxation of Chargeable Gains Act 1992 shall be modified as follows.

(2) In subsection (7), the word “taxable” shall be inserted before the words “basic life assurance and general annuity business”.

(3) In subsection (10), the word “taxable” shall be inserted before the words “basic life assurance and general annuity business.”(e).

(a) Subsection (3A) of section 88 was inserted by section 170 of, and paragraph 6 of Schedule 33 to, the Finance Act 2003.

(b) Subsection (1B) of section 89 was inserted by section 170 of, and paragraph 6 of Schedule 33 to, the Finance Act 2003.

(c) 1992 (c. 12). Section 210A was inserted by section 170 of, and paragraph 14 of Schedule 33 to, the Finance Act 2003.

(d) Section 210B was inserted by section 170 of, and paragraph 15 of Schedule 33 to, the Finance Act 2003.

(e) Section 211ZA was inserted by section 170 of, and paragraph 21 of Schedule 33 to, the Finance Act 2003.

(2) This regulation has effect in relation to insurance business transfer schemes taking place on or after 1st January 2003.

39. In regulation 45—

(a) in paragraph (1), omit from “; and paragraph (3)” to the end of the paragraph;

(b) omit paragraph (3).

40. Omit regulations 47, 49, 50, 50A, 50B(a), 51, 52, 53D(b), 53E, 53F, 53G and 53J(c).

Jim Murphy

Nick Ainger

18th March 2004

Two of the Lords Commissioners of Her Majesty's Treasury

(a) Regulations 50A and 50B were inserted by regulation 9 of S.I. 2003/23.

(b) Regulation 53D was inserted by regulation 8 of S.I. 2001/3975.

(c) Regulations 53E, 53F, 53G and 53J were inserted by regulation 10 of S.I. 2003/23.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These regulations amend the Friendly Societies (Modification of the Corporation Tax Acts) Regulations 1997 (S.I. 1997/473) (“the principal regulations”) which modify the Corporation Tax Acts in their application to friendly societies.

Regulation 3 amends the terms used in the principal regulations to define different kinds of friendly societies by reference to the requirements of the Interim Prudential Sourcebook for Friendly Societies made by the Financial Services Authority under the Financial Services and Markets Act 2000. These regulations amend the principal regulations to reflect these amendments to the terms used.

Regulation 4 modifies the definition of “insurance business transfer scheme” for the purposes of the Corporation Tax Acts as the definition of that term in section 431(2) of the Income and Corporation Taxes Act 1988 (c. 1) excludes any scheme involving a friendly society. This makes redundant many of the modifying provisions in the principal regulations.

Regulations 6(3) and 7 modify the definition of “long-term insurance fund” in section 431(2) of the Income and Corporation Taxes Act 1988 for any friendly society not required to keep a separate fund for its long-term business. This also makes redundant many of the modifying provisions in the principal regulations.

Regulations 24, 33, 35, 36, and 38 modify provisions in the Finance Act 1989 (c. 26), the Income and Corporation Taxes Act 1988, and the Taxation of Chargeable Gains Act 1992 (c. 12) inserted by the Finance Act 2003 (c. 14). These modifications are required because of the specific exemptions from corporation tax which are allowed to the profits from basic life assurance and general annuity business of friendly societies. Regulation 28 is consequent to the insertion of section 82B of the Finance Act 1989 by the Finance Act 2003 and is required because a friendly society may not be required to return a valuation report for every period of account.

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